

### **REMARKS**

Applicant has carefully reviewed and considered the Notice of Non-Responsive Amendment mailed March 31, 2004 and the Office Action mailed on September 25, 2003, and the references cited therewith.

Claims 20, 53, 108, and 110 are amended; as a result, claims 19, 20, 53, 79-87, 98-102, and 104-124 are now pending in this application. The claim set included herewith now includes the Amendments to the claims made in the Amendment and Response dated December 23, 2004.

#### **§102 Rejection of the Claims**

**Claims 19, 53, 79, 81, 85, 87, 108, and 112 were rejected under 35 USC § 102(b) as being anticipated by Suguro et al. (U.S. Patent No. 5,189,503).**

Claim 19 recites among, other things, a first conductive capacitor plate of “a first material” and a metal layer of “a second material”, the metal layer overlying the first conductive capacitor plate, wherein the metal layer includes “a non-oxidized portion” and “an oxidized portion”.

Applicant cannot find in Suguro et al. a first conductive capacitor plate of “a first material” and a metal layer of “a second material overlaying the first conductive capacitor plate. Suguro et al. discloses in FIG. 7d a first conductive capacitor plate (45) of W and a dielectric (47) of WO<sub>2</sub>. Since first conductive capacitor plate (45) and dielectric (47) of Suguro et al. are formed from W (first material), first conductive capacitor plate (45) and dielectric (47) Suguro et al. are not formed from “a first material” and a “second material”. In contrast, in claim 19 of the present invention, the first conductive capacitor plate is formed from “a first material” and a metal layer is formed from “a second material”.

Accordingly, Applicant requests that the rejection of claim 19 be reconsidered and withdrawn and that claim 19 and its dependent claims 79, 81, and 108 be allowed.

Claim 53 is amended to recite elements at least similar to the elements of claim 19. Thus, claim 53 is also not anticipated by Suguro et al. for reasons at least similar to the reasons presented above regarding claim 19. Accordingly, Applicant requests that the rejection of claim 53 be reconsidered and withdrawn and that claim 53 and its dependent claims 85, 87, and 112 be allowed.

**Claims 19, 53, 79, 81, 85, 87, 107, 108, 111, and 112 were rejected under 35 USC § 102(b) as being anticipated by Hirose (JP 7-226485).**

Claim 53 recites, among other things, a first capacitor electrode of “a first metal material” and a metal layer of “a second metal material” the metal layer overlying the first capacitor electrode, wherein the metal layer includes “a non-oxidized portion” and “an oxidized portion”, wherein the oxidized portion is a dielectric of the capacitor, claim 53 further clarifies that the second metal material is “different” from the first metal material.

Applicant cannot find in Hirose a first capacitor electrode of “a first metal material” and a metal layer of “a second metal material” overlying the first capacitor electrode, in which the second metal material is “different” from the first metal material. Hirose discloses in FIG. 13 a first capacitor electrode (13) of Ti and a dielectric (14) of TiO<sub>2</sub>. The surface of dielectric 14 is heated to form a high resistance film (14A). Thus, high resistance film (14A) is also TiO<sub>2</sub>. Since first capacitor electrode (13) and dielectric (14) or (14A) of Hirose are formed from the same material (Ti), first capacitor electrode (13) and dielectric (14) or (14A) of Hirose are not formed from “different” materials. In contrast, in claim 53 of the present invention, the first capacitor electrode is formed from “a first metal material” and a metal layer is formed from “a second metal material” which is “different” from the first metal material.

Accordingly, Applicant requests that the rejection of claim 53 be reconsidered and withdrawn and that claim 53 and its dependent claims 85, 87, 111, and 112 be allowed.

Claim 19 recites elements at least similar to the elements of claim 53. Thus, claim 19 is also not anticipated by Hirose for reasons at least similar to the reasons presented above regarding claim 53. Accordingly, Applicant requests that the rejection of claim 19 be reconsidered and withdrawn and that claim 19 and its dependent claims 79, 107, and 108 be allowed.

### **§103 Rejection of the Claims**

**Claims 20, 82, 84, and 110 were rejected under 35 USC § 103(a) as being unpatentable over Boldgett et al. (U.S. Patent No. 5,811,990) in view of Suguro et al.**

Claim 20 is amended. As amended, claim 20 recites, among other things, a first conductive capacitor plate of “a first material” and a metal layer of “a second material” the metal

layer overlying the first conductive capacitor plate, wherein the metal layer includes “a non-oxidized portion” and “an oxidized portion”.

Applicant cannot find in Boldgett et al. a first conductive capacitor plate of “a first material” and a metal layer of “a second material”. As presented above in the §102 *Rejection of the Claims*, Applicant also cannot find Suguro et al. a first conductive capacitor plate of “a first material” and a metal layer of “a second material” overlying the first conductive capacitor plate, in which the second material is “different” from the first material. Thus, neither Boldgett et al. nor Suguro et al. discloses all of the elements of claim 20. Therefore, claim 20 is patentable over Boldgett et al. and Suguro et al. Accordingly, Applicant requests that the rejection of claim 20 be reconsidered and withdrawn and that claim 20 and its dependent claims 82, 84, and 110 be allowed.

**Claims 20, 82, 84, 109, and 110 were rejected under 35 USC § 103(a) as being unpatentable over Boldgett et al. in view of Hirose.**

Claim 20 is amended. As amended, claim 20 recites, among other things, a first conductive capacitor plate of “a first material” and a metal layer of “a second material” the metal layer overlying the first overlying the first conductive capacitor plate, wherein the metal layer includes “a non-oxidized portion” and “an oxidized portion”.

Applicant cannot find in Boldgett et al. a first conductive capacitor plate of “a first material” and a metal layer of “a second material”. As presented above in the §102 *Rejection of the Claims*, Applicant also cannot find in Hirose a first conductive capacitor plate of “a first material” and a metal layer of “a second material” overlying the first conductive capacitor plate, in which the second material is “different” from the first material. Thus, neither Boldgett et al. nor Hirose discloses all of the elements of claim 20. Therefore, claim 20 is patentable over Boldgett et al. and Hirose. Accordingly, Applicant requests that the rejection of claim 20 be reconsidered and withdrawn and that claim 20 and its dependent claims 82, 84, 109, and 110 be allowed.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6969 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29 day of April, 2004.

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